



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Introduced:	01/24/11	Bill No:	SB 120
Tax Program:	Registered Warrants	Author:	Anderson
Sponsor:	Author	Code Sections:	GC 17203.6
Related Bills:	SB 11 (Anderson)	Effective Date:	Immediately

BILL SUMMARY

This bill would require a state agency, upon the Controller making a specified determination, to accept a registered warrant issued by the Controller for payment of any state obligation.

ANALYSIS

CURRENT LAW

Existing Chapter 2 (commencing with Section 17200) of Part 4 of Division 4 of Title 2 of the Government Code provides that the Controller is responsible for issuing warrants drawn from the General Fund for payment of obligations of the state. In instances where the amount payable out of the General Fund is in excess of the balance remaining in the General Fund after deducting amounts earmarked or reserved for payment by law, the Controller can issue a "registered warrant."

A registered warrant carries a promise to pay the bearer the amount shown on the warrant plus interest, by a date prescribed on the warrant, usually within one year of the date of issuance. Registered warrants bear interest at a rate fixed by current state law from the date of registration to the date of maturity, or the date upon which the State Treasurer advertises that they are payable upon presentation if they bear no date of maturity.

Government Code Section 17280.1 (added by SB 483, Chapter 1211, Stats. 1983) requires the Franchise Tax Board (FTB) to accept registered warrants as payment for personal income or bank and corporation taxes. Under existing law, there is no statute that requires the State Board of Equalization (BOE) to accept registered warrants. The BOE does, however, have the authority *to accept* registered warrants as payment of liabilities at its own discretion.

Existing Government Code Section 17203 provides that registered warrants issued by the State are acceptable and may be used as security for the performance of any public or private trust or obligation or for the performance of any act, including the use of such registered warrants by banks and savings and loan associations as security deposits of funds of any county, municipal or public corporation, district, political subdivision, or state agency. Under Government Code Section 17205, all registered warrants are considered to be a "negotiable instrument;" i.e. a form of payment that *may* be accepted by the payee in a particular transaction. A negotiable instrument however, is not the same as "legal tender," which *must* be accepted as a form of payment. Based on these statutes and the lack of any legal authority that clearly prohibits it, State-issued

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

registered warrants *could be* accepted by the BOE as valid remittances for purposes of crediting payment of a tax, surcharge, or fee liability for the "payee."

Proposed Law

This bill would add Section 17203.6 to the Government Code to require a state agency, upon the Controller making a specified determination, to accept from a person or entity a registered warrant issued by the Controller endorsed by the payee, at full face value, for payment of any obligation owed by that payee to that state agency.

This bill would specify that its requirements shall become operative only if the Controller determines that all of the following conditions are satisfied:

- 1) Acceptance of registered warrants will not jeopardize the ability of the state to issue regular warrants for all of the following: education programs, debt service, state payroll, pensions, In-Home Support Services, Medi-Cal providers, or any other payment required by federal law, the California Constitution, or a court order.
- 2) Acceptance of registered warrants will not result in a net cost to the state. For purposes of this paragraph, the calculation of "net cost" includes, but is not limited to, all of the following factors:
 - Interest savings related to redemption of the registered warrant.
 - Interest costs related to any new registered warrants issued to replace the registered warrant accepted for payment of a state obligation.
 - Costs related to any other internal or external borrowing required to offset the loss of resources due to acceptance of the registered warrants for payment of a state obligation.
 - Forgone interest earnings related to loss payments due to acceptance of the registered warrants for payment of a state obligation.
 - Significant new administrative costs to state agencies related to acceptance of registered warrants for payment of a state obligation.

This bill would specify that its provisions shall not apply to an obligation owed by a payee for payments subject to the immediate deposit standard contained in Section 23304 (a)(3) of the Federal Unemployment Tax Act (26 U.S.C. Sec. 3304(a)(3)) or Section 303(a)(4) of the Social Security Act (42 U.S.C. Sec. 303(a)(4)).

This bill would require the Controller, on or before September 1 following the conclusion of a fiscal year in which a state agency is required to accept registered warrants, to submit a report to the Joint Legislative Budget Committee that contains all of the following:

- The amount of warrants received by state agencies.
- The effect of the acceptance of these warrants on the state's cashflow and financial well-being, including any net costs or savings, and any impacts on state payments required by federal law, the state Constitution, or a court order.

As an urgency statute, this bill would take effect immediately upon enactment. The bill states that an urgency statute is necessary: "In order to allow the residents of the state to pay for all obligations owed to the state, while the state is issuing registered warrants, it is necessary that this act take effect immediately."

The bill's provisions would become inoperative on July 1, 2012, and, as of January 1, 2013, are repealed, unless a later enacted statute deletes or extends that date.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

LEGISLATIVE HISTORY

This bill contains the same provisions as AB 1506 (Anderson) of the 2009-10 Legislative Session. At the August 31, 2009 BOE Legislative Committee meeting, the Members unanimously voted to support the application of AB 1506 provisions to the BOE.

AB 1506 received bipartisan support throughout the legislative process. The bill was passed by the Assembly 78-0 on September 2, 2009, and by the Senate 35-0 on August 23, 2010. However, Governor Schwarzenegger vetoed the bill on September 30, 2010, with the following message:

“This measure would require all state departments, upon a specified determination made by the State Controller's Office, to accept registered warrants, also known as IOUs, in lieu of cash payments. The issuance of IOUs represents an embarrassing failure on the part of the state to manage its finances. Unfortunately, if the Legislature does not pass a balanced budget soon, the possibility that the Controller will be forced to issue IOUs this year becomes all too real. I sympathize with businesses that were issued IOUs last year and those businesses that may receive them this year. IOUs place enormous financial strains on recipients who are unable to use them to pay their own obligations, including debts owed to the state. However, requiring state departments to accept IOUs in lieu of cash payments defeats the purpose of issuing IOUs in the first place. It would exacerbate the state's cash crisis and would accelerate the possibility of the state defaulting on its debt service and payroll obligations.

Since IOUs could be avoided if the Legislature passed a balanced budget, I am unable to sign this bill.”

On August 31, 2009, the BOE Members voted unanimously to sponsor a proposal that would require the BOE to accept registered warrants as payment for any tax, surcharge, or fee liability owed to the BOE, if the registered warrant is issued specifically to that tax, fee, or surcharge payer. This legislative proposal was incorporated into the BOE-sponsored omnibus bill, SB 1494. However, the bill was recommended for the suspense file because of the registered warrant provisions. In order to move the BOE-sponsored bill off suspense, the BOE staff accepted the Committee recommendations to eliminate the registered warrant provisions from the bill.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author, who writes, “Existing law already allows the state to distribute IOUs. According to Government Code section 17203, ‘Such registered warrants are acceptable and may be used as security for the faithful performance of any public or private trust or obligation or for the performance of any act, including the use of such registered warrants by banks and savings and loan associations as security for deposits of funds of any county, municipal or public corporation, district, political subdivision, or state agency.’ This reminds us of Wimpy’s famous line, ‘I’d gladly pay you Tuesday for a hamburger today.’ So, the inequity then is revealed by the peoples’ inability to use those instruments in a practical way.”
2. **Bill would not be problematic to administer.** During 2009, the BOE accepted State-issued registered warrants as payment of sales and use taxes and other taxes

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.

and fees owed to the BOE. Because procedures already exist to allow taxpayers to pay with a registered warrant, implementing the bill's provisions would not be problematic for the BOE.

3. **Related legislation.** SB 11 (Anderson) would prohibit a state entity from assessing a fine, interest, or penalty on a debt owed to the state for the payee of a registered warrant if the debt owed to the state was imposed between January 1, 2006, and December 31, 2009, and would change the due date of a state debt to 30 days after the payable date of registered warrants.

The BOE, at the January 27, 2011 BOE Legislative Committee meeting, voted unanimously to sponsor legislation that would require the BOE to accept registered warrants from a taxpayer with any tax, surcharge, or fee obligation owed when the registered warrant has been paid directly to that tax, surcharge, or fee payer.

COST ESTIMATE

Because the BOE is already accepting registered warrants as payment for outstanding liabilities, this measure would have no administrative cost impact.

REVENUE ESTIMATE

This bill would have no impact on state and local revenues, as well as any special fund revenues. However, because payment of taxes, fees, and surcharges using a registered warrant would require the warrant to be held until the warrant redemption date, there could be a deceleration of cash receipts.

Analysis prepared by:	Debra Waltz	916-324-1890	02/17/11
Contact:	Margaret S. Shedd	916-322-2376	
Is			0120sen012411dw.doc